

# Submission to Australia's Draft National Report for the Universal Periodic Review

July 2020

## Submission:

### *Australia's Draft National Report for the Universal Periodic Review*

The Centre for Excellence in Child and Family Welfare (the Centre) welcomes the opportunity to provide a submission on Australia's Draft National Report for the Universal Periodic Review (UPR) for consideration by the Human Rights Unit in the Attorney-General's Department.

The Centre is the peak body for child and family services in Victoria. For over 100 years we have advocated for the rights of children and young people to be heard, to be safe, to access education and to remain connected to family, community and culture. We represent over 150 community service organisations, students and individuals throughout Victoria working across the continuum of child and family services, from prevention and early intervention to the provision of out-of-home care.

The Centre is a signatory to the Joint NGO Submission and fully supports all recommendations contained therein. We welcome confirmation that the UPR team within the Attorney-General's Department is considering the issues and recommendations raised in this submission.

Our brief submission includes a selection of the 2015 Universal Periodic Review recommendations with a focus on areas of concern that are not covered (or only partially covered) in the Joint NGO Submission.

#### Protecting the rights of children

##### **Recommendations 166, 168, 169 and 167, 170**

The National Children's Commissioner has recommended a range of measures to protect the rights of children. These are outlined in the *Children's Rights Report 2019* and we wish to highlight the following:

- The Australian Government should introduce child rights and wellbeing impact assessments on legislative changes that affect children's rights
- The Australian Government should ratify the Optional Protocol to the CRC on a Communications Protocol (the third Optional Protocol)
- The Australian Government should develop a national poverty reduction plan that explicitly focuses on children
- The Australian Government should implement the recommendations included in the Australian Human Rights Commission's 2019 report *Lives on hold: Refugees and asylum seekers in the 'Legacy Caseload'*, including by:
  - o ensuring those facing financial hardship remain eligible for income support under the Status Resolution Support Services program (including those whose applications are deemed 'finally determined')
  - o increasing income support payments under the Status Resolution Support Services

- The Australian Government should appoint a Cabinet level Minister with overall responsibility for driving children's issues at the federal level.<sup>1</sup>

While Annex 1 notes the role of the National Children's Commissioner in promoting the rights of children, there is no mention of the *Children's Rights Report 2019*, or commitment to responding to or implementing these recommendations in Australia's Draft National Report. There is a need for mechanisms through which the Australian Government can be held to account by the Australian Human Rights Commission. We strongly encourage the Australian Government to implement the recommendations of the National Children's Commissioner and to work with the Australian Human Rights Commission to strengthen measures to protect the rights of the child.

## Protecting the rights of people seeking asylum

### **Recommendations 239-241, 243, 244, 247, 249-253, 265, 266, 269, 271**

Australia's Draft National Report fails to report on a policy change that limits the rights of people seeking asylum. In 2018, the Department of Home Affairs announced that the Status Resolution Support Services (SRSS) budget would be cut by over 60 per cent and the eligibility criteria changed.

Since mid-2018, those whose bridging visas include work rights are no longer eligible to receive SRSS unless they meet revised vulnerability threshold criteria. Prior to this, all people seeking asylum on bridging visas who were experiencing financial hardship and/or deemed to experience significant vulnerabilities were eligible for SRSS.

These changes have meant that the number of people able to receive SRSS is projected by the Department to drop below 5,000, down from the 13,299 receiving support as of February 2018. Funding for the program has been cut from \$139.8 million to \$52.6 million.

The Asylum Seeker Resource Centre reported that from February 2019 families with children over the age of six years who do not meet the revised eligibility criteria have started to be excluded from support.<sup>2</sup>

Civil society and the Australian Human Rights Commission have raised significant concerns for the welfare of people seeking asylum affected by the cuts to SRSS. These involve issues of material wellbeing and the possibility of homelessness, adverse effects on health, and an increased likelihood of workplace exploitation. A report published by the Refugee Council of Australia estimated that 79 per cent of clients would be at risk of homelessness and/or destitution if they lost SRSS payments.<sup>3</sup> This finding also underscores the existing issues with the rate of SRSS, which at around \$250 per week is already well below the poverty line and creates the need for people seeking asylum to rely on emergency relief and charity.

We urge the Australian Government to reverse the cuts to this vital support.

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<sup>1</sup> Australian Human Rights Commission (AHRC) 2019, *Children's rights report 2019 – In their own right: children's rights in Australia*, AHRC, Sydney, pp. 13, 18, 22, 23.

<sup>2</sup> Asylum Seeker Resource Centre (ASRC) 2019, *Cutting the safety net: the impact of cuts to Status Resolution Support Services*, Asylum Seeker Resource Centre, Melbourne.

<sup>3</sup> Van Kooy, J 2018, *An unnecessary penalty: economic impacts of changes to the Status Resolution Support Services (SRSS)*, Refugee Council of Australia, Sydney.

## Policies for marginalised or vulnerable social groups

### Recommendation 123

In response to recommendation 123, Annex 1 states that 'The Australian Government remains committed to implementing national policies to support marginalised and vulnerable people' and 'Australia has a comprehensive system of social security'.<sup>4</sup> This explanation does not reflect the ways in which social security policy reinforces marginalisation and vulnerability.

Welfare policies and programs that use harsh compliance measures such as ParentsNext, which obliges parents with very young children to complete participation plans or face suspension and cancellation of Parenting Payments, threaten the right to social security under Article 22 of the Universal Declaration of Human Rights and Article 26 of the Convention on the Rights of the Child. Suspending or cancelling a parent's social security payments is inconsistent with the best interests of children, a test defined in Victorian legislation.<sup>5</sup>

Member organisations working closely with families who have been affected by payment suspensions have told us of the stark choices single mothers in particular have needed to make with no income to buy food or meet their children's needs. There is no way to suspend or cancel a parent's social security payments that would not adversely affect a child's right to safety and adequate provisions.

The Australian Government must review its punitive welfare policies to avoid exacerbating vulnerability and pushing families into poverty and hardship.

## Age of criminal responsibility

### Recommendations 178, 179

The Centre strongly supports raising the age of criminal responsibility from ten years to at least 14 years. While this matter is raised in the Joint NGO Submission, we note that on 27 July, the Council of Attorneys-General (CAG) working group did not make a decision on this issue, and identified the need for further work to occur regarding processes and services for children who exhibit offending behaviour. As noted in Annex 1, the working group's review and conclusion would have enabled states and territories to make decisions about the age of criminal responsibility within their jurisdictions. The Victorian Government is currently drafting new Youth Justice legislation, however the age of criminal responsibility will not be increased in this legislation. The Victorian Youth Justice Strategy clearly articulates that the Victorian Government will introduce legislative changes to raise the age of criminal responsibility only when there is a national consensus. The delay by the CAG working group will mean that children as young as ten will continue to be imprisoned, contrary to their best interests and Universal Periodic Review recommendations 178, 179.

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<sup>4</sup> Annex 1, p. 20.

<sup>5</sup> s10 *Children, Youth and Families Act 2005* (Vic).